

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

<b>DANIEL MORRILL,</b>	)	
	)	
<i>Plaintiff</i>	)	
	)	
<b>v.</b>	)	<b>Docket No. 99-260-P-C</b>
	)	
<b>HEATHER SKOLFIELD,</b>	)	
	)	
<i>Defendant</i>	)	

**RECOMMENDED DISMISSAL**

The plaintiff, Daniel Morrill, appearing *pro se*, has filed a complaint (Docket No. 1), motion for a temporary restraining order (Docket No. 2), motion for a permanent restraining order (Docket No. 5), and an application for leave to proceed *in forma pauperis* (Docket No. 7). There is no indication that the complaint has yet been served on the defendant. I recommend that the action be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B).

The complaint alleges that the defendant violated the plaintiff's unspecified "constitutional and civil rights," Complaint at [1], apparently by obtaining an order of protection against harassment against him in the Maine District Court, *id.* at [2]. The complaint alleges that the defendant violated several Maine statutes but does not identify any basis for the exercise of this court's jurisdiction. In a document entitled Memorandum in Support of Plaintiff's Complaint (Docket No. 4), the plaintiff invokes 42 U.S.C. § 1983 as the basis for his federal claim and alleges that the defendant obtained the state court order to prevent him from performing a citizen's arrest under Maine state law,

specifically his arrest of her on a charge of perjury. Memorandum at [1]-[2].

Section 1983 provides a private right of action to persons deprived of their rights, privileges or immunities under the Constitution and federal laws against those who, under color of law, cause them to be so deprived. It does not apply to deprivation of rights created by state law. *E.g.*, *Smith v. Sullivan*, 611 F.2d 1039, 1045 (5th Cir. 1980); *Fluent v. Salamanca Indian Lease Auth.*, 847 F. Supp. 1046, 1056 (W.D.N.Y. 1994). The plaintiff cites no authority for the proposition, essential to his claim, that he has a federal constitutional or statutory right to effect a citizen's arrest under state law, nor am I aware of any. A legally frivolous complaint is one that is based on "an indisputably meritless legal theory." *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). The complaint in this action clearly meets that definition.

Accordingly, finding both that the action as presented by the plaintiff fails to state a claim on which relief may be granted by this court and that the action is frivolous, I recommend that the court **DISMISS** the action pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) & (ii).

#### **NOTICE**

*A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within ten (10) days after being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.*

*Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.*

*Dated this 19th day of August, 1999.*

---

*David M. Cohen  
United States Magistrate Judge*